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SUBJECT: LETTER FROM GUATEMALA (9)

REF: GUATEMALA 1204 AND PREVIOUS

Merger of Defense and Government Ministries - Not Likely

1. (SBU) Late June and early July saw a spate of media reports of GOG interest in merging the Defense and Government (Interior) Ministries. According to media and GOG sources, Minister of Government Vielmann generated the proposal, presumably as part of his continuing efforts to get control of Guatemala's public security crisis. At first glance, a merger would appear to solve the Civilian National Police (PNC) lack of manpower, as a National Guard would presumably have an end strength of 35,500 personnel (15,500 military and 20,000 police). The budget would similarly grow to 2,570 million quetzales (approximately 340 million dollars) by combining the 780 million quetzal Defense Ministry and 1,790 million quetzal Government Ministry budgets. Another unspoken but likely consideration among some GOG officials was that a merger would resolve the issue of dealing with a military institution that engenders ambivalence and indifference in the private sector-oriented Berger Administration.

2. (SBU) Not surprisingly, the Guatemalan military is opposed to a merger for various professional, ideological, and emotional reasons. Burned badly in its last (1960-1996) involvement in internal security, the military prefers to focus on international peacekeeping, combating transnational threats such as drug trafficking, and disaster relief. After almost a decade in its "temporary" mission of supporting the police with joint patrols, the military remains ambivalent about working with a police force that it views as corrupt and incompetent, and is preoccupied with being accused of human rights abuses should any of its personnel resort to deadly force. And, the military is dismayed by the use of its scarce Operations and Maintenance (O & M) funds to support joint patrols at the expense of other military priorities such as counternarcotics interdiction or unit training.

3. (SBU) Human rights groups have generally not made up their minds about a National Guard. Some opposed the idea, arguing that a merger would lead to a militarization of the public security force since the military members of the force would dominate the police members. Other human rights groups have been less critical. While PNC officials have avoided comment on the issue, some may fear being sidelined by the military given the police force's weak institutional history and lack of strong leadership. A couple of pundits falsely traced the proposal's origins to Washington. Other commentators have noted that such a merger would require extensive constitutional changes, a dubious prospect as the last attempt to amend the constitution on military issues (to allow, among other things, a civilian Defense Minister) went down to defeat in a 1999 referendum.

4. (SBU) President Berger and MOD Aldana responded to the media interest by noting that the merger proposal was worthy of analysis but was not actively being studied. The president's chief of strategic analysis told us privately -- and flatly -- that the proposal was not being studied. With only thirty months left in its term, it is highly unlikely that the Berger Administration would take any action on such a controversial issue. Given the almost decade-long track record of failure in creating a professional police force, the GOG should have reservations about attempting to create a new security force.

The Justice System Wanders into Kafka Territory

5. (SBU) In a justice system that enjoys only a 2 to 5 percent indictment rate for reported crimes, and where prosecutors face a huge backlog of cases pending investigation, a recent court decision showed a rare example of perseverance by the justice system. Unfortunately, this particular case only demonstrates the absurd nature of justice in Guatemala. In this July 15 decision, a court sentenced former Defense Minister Major General Mario Barrios Celada to two and one half years in prison for defamation of character. The aggrieved party in this case was Javier Cacacho, a former Army Captain who was expelled from the military by then-Defense Minister Barrios (1997-99) after

being caught in possession of a kilo of cocaine in his personal vehicle. For reasons that remain unclear, Cacacho was not prosecuted after his discharge. Acting on a complaint from Cacacho, prosecutors obtained a conviction of General Barrios for defamation of character. After the conviction was overturned on appeal, prosecutors again brought charges against Barrios, resulting in the latest conviction. Ironically, Cacacho, who reportedly continued to engage in criminal activities, was murdered in early 2005 under suspicious circumstances.

16. (SBU) Guatemalan law does not provide liability protection to officials acting under the cover of official duties, hence the lawsuit against Barrios. Late last year, then-Defense Minister Mendez Pinelo refused to release Defense Ministry documents to a judge until he had obtained a legal ruling from the Attorney General. Human rights groups cried foul and accused the military of obstruction; military sources cited the Barrios case and claimed that Mendez Pinelo was worried about being sued by retired military officers who were defendants in an embezzlement case. The Barrios precedent will serve as a disincentive to transparency and strengthen caution and evasion of responsibility by government officials.

WHARTON